

In re: Brader-Araje *et al.*
Serial No.: 09/549,370
Filed: April 13, 2000
Page 6

REMARKS

Applicants appreciate the withdrawal of the pending rejections in response to Applicants' appeal brief. The latest Official Action, however, sets forth new rejections of each of the pending claims as obvious under 35 U.S.C. § 103(a) over U.S. Patent No. 5,898,836 to Freivald et al. ("Freivald") in view of U.S. Patent No. 6,405,175 to Ng ("Ng") and an article referred to in the Official Action as "Redherring.com." For the reasons set forth herein, Applicants respectfully submit that the combination of cited references does not teach or suggest the claimed invention and, as such, the pending rejections should be withdrawn and the application passed to issuance.

I. The Rejection of Claims 1-2 and 4-5 Should Be Withdrawn

Applicants have carefully reviewed the pending rejection of Claim 1, and the cited references on which the rejection is based. Based on this review, Applicants respectfully submit that the cited portions of the applied references fail to disclose or suggest at least seven (7) separate recitations of Claim 1. Applicants have reproduced Claim 1 below with each of the recitations from Claim 1 that are not taught or disclosed in the cited references emphasized:

1. A method of updating information maintained at an intermediary web site on a computer network about items being auctioned *at a plurality of remotely located auction sites* on the computer network, wherein the information is displayable to users accessing the intermediary web site via the computer network, the method comprising:

obtaining auction item data that has changed since a previous time for auctions currently being conducted at the respective auction sites, wherein *each auction site includes a data engine* that is configured to obtain data about each item currently being auctioned at the respective auction site, and wherein the intermediary web site includes an agent that is configured to communicate with and retrieve auction item data from each auction site data engine, comprising:

establishing a TCP/IP connection between the agent and each respective data engine; and

sending an HTTP request from the agent to each respective data engine via the TCP/IP connection to obtain auction item data that has changed since a previous time; *extracting keywords* from the obtained auction item data *via the agent*; and

storing the extracted keywords via the agent, wherein *each stored keyword is associated with an item currently being auctioned* at a respective one of the plurality of remotely located auction sites, and wherein the *stored keywords are searchable by users* accessing the intermediary web site.

In re: Brader-Araje *et al.*
Serial No.: 09/549,370
Filed: April 13, 2000
Page 7

Each emphasized claim recitation is discussed in further detail in the following sections.

A. A Plurality of Auction Sites

The first recitation of Claim 1 missing from the cited references is the recitation of "a plurality of remotely located auction sites", which expressly indicates that more than a single auction site is involved in the method of Claim 1. This recitation is also reflected in Claim 1 in the reference to "respective auction sites", which again emphasizes that there is more than one auction site. Despite these recitations, the pending rejection does not address the requirement for a plurality of auction sites. Moreover, even had the pending rejection attempted to address this recitation, Applicants respectfully submit that this recitation could not be found in the pending rejections. In particular, Ng is the only one of the cited references that mentions an auction site, yet Ng clearly only discloses or suggests a search of a single auction site, and contains no teaching or suggestion of maintaining and updating information on an intermediary web site from a plurality of auction sites. Accordingly, the rejection of Claim 1 should be withdrawn for this reason.

B. Data Engines at Each Auction Site

The second recitation of Claim 1, missing from the cited references is the recitation that "each auction site includes a data engine." The Official Action cites to paragraph 1 of Redherring.com as suggesting this recitation in that the reference states that "Redherring.com will incorporate NetMind's Minder for Partners technology into its Web site." (Official Action at 4). This statement from Redherring.com, however, simply does not disclose or suggest including a data engine at an auction site (let alone at a plurality of auction sites).

In particular, in Claim 1 the plurality of auction sites are remote from the intermediate web site. The NetMind's Minder for Partners technology – which is the subject matter from Redherring.com that is identified in the Official Action as a "data engine" – is not located at remote auction sites. Instead, the reference clearly states that the Minder for Partners technology is located at the Redherring.com web site. The rejection further identifies the Redherring.com web site as an "intermediary web site that includes an agent." (See Official Action at 4, citing to the portion of Redherring.com that identifies the "Minder for Partners software" as "a server-side solution"). It is axiomatic that the Redherring.com web site cannot comprise both (1) an "intermediary web site" and (2) an auction site that is

In re: Brader-Araje *et al.*
Serial No.: 09/549,370
Filed: April 13, 2000
Page 8

remote from the intermediary web site. Thus, it is equally clear that the cited references do not disclose or suggest including data engines at a plurality of remote auction sites.

C. Extracting Keywords From Obtained Data

Claim 1 further recites that the method involves "extracting keywords from the obtained auction item data." Freivald is cited as disclosing extracting keywords from the data, although the Official Action concedes that Freivald does not disclose or suggest that keywords are extracted from auction item data. (See Official Action at 3). In support of the contention that Freivald discloses extracting keywords from obtained data, the Official Action cites to Column 7, lines 9-12 of Freivald, which states:

The user then selects which portions of the web page document are to be compared for changes. The user can select paragraphs of text by dragging a highlight across the text."

(Freivald at Col. 7, lines 9-12).

This excerpt from Freivald, however, simply does not teach "extracting keywords from the obtained . . . data." Instead, what the above-quoted text states is that a portion of a web page document is selected. Selecting a portion of a web page document and extracting keywords from data, however, are two very different things. The selection of a portion of a web page document in Freivald involves highlighting the portion of the document that is to be reviewed for changes. Extracting keywords according to embodiments of the present invention, on the other hand, involves extracting individual words or phrases from data, which are then stored pursuant to another recitation of Claim 1. Accordingly, Freivald fails to disclose or suggest "extracting keyword from the obtained . . . data", and the lack of any such disclosure provides yet another independent basis for withdrawal of the rejection of Claim 1.

D. Extracting Keywords Via the Agent

Claim 1 further recites that the keywords are extracted "via the agent." As indicated in Claim 1, the agent is something that is included at the intermediary web site. The Official Action points to Column 7, lines 9-12 of Freivald (which is quoted in the preceding section) as disclosing this aspect of Claim 1. However, what the cited portion of Freivald expressly states is that the portion of the web page document (i.e., the purported web page document) is selected by "the user." The "user" of Freivald is someone who operates a client 14 from a site

In re: Brader-Araje *et al.*
Serial No.: 09/549,370
Filed: April 13, 2000
Page 9

on the Internet 10 that is remote from the server 12 where the system of Freivald is located. (*See, e.g.*, Freivald at Col. 3, line 60 through Col. 4, line 2 and FIG. 1). Thus, it is clear that the "user" of Freivald is not located at or part of an intermediary web site, and hence cannot comprise the "agent" of Claim 1. Accordingly, Freivald's lack of any teaching of "extracting keywords . . . via an agent" that is included at the intermediary web site as recited in Claim 1 provides yet another independent reason as to why the rejection of Claim 1 should be withdrawn.

E. Storing Extracted Keywords

Claim 1 further recites "storing the extracted keywords." The Official Action cites to Column 6, lines 32-46 of Freivald as disclosing this recitation of Claim 1. The cited portion of Freivald, however, refers to storing cyclic redundancy code checksums which are not the same "keywords" that the rejection points to as being extracted from the obtained data. Thus, it is equally clear that Freivald does not disclose or suggest "storing the extracted keywords" as recited in Claim 1.

F. Each Stored Keyword Associated with an Item Being Auctioned

Claim 1 further recites that "each stored keyword is associated with an item currently being auctioned." In rejecting Claim 1, the Official Action never identifies which portion of the cited reference allegedly discloses this recitation. The two things identified in the pending rejection as corresponding to "extracted keywords" are the CRC checksums discussed at Col. 6, lines 32-46 of Freivald and the highlighted web page portions discussed at Col. 7, lines 9-12 of Freivald. (*See* Official Action at 3). It is clear that neither of these alleged "keywords" are associated with an item that is being auctioned.

In particular, each CRC checksum of Freivald comprises "a condensed signature or fingerprint of [a web page] document." (Freivald at Col. 6, lines 38-39). Such CRC's obviously have no relationship whatsoever to items that are being auctioned. Likewise, the web page portions that a user can highlight for change-detection purposes also have nothing to do with items that are being auctioned. Thus, the failure of the cited references to disclose or suggest associating each stored keyword with an item being auctioned provides yet another independent basis for withdrawal of the rejection of Claim 1.

In re: Brader-Araje *et al.*
Serial No.: 09/549,370
Filed: April 13, 2000
Page 10

G. Keywords Searchable by Users Accessing the Intermediary Web Site

Finally, Claim 1 recites that the stored keywords are searchable by users accessing the intermediary web site." Once again, the Official Action does not identify the portions of the cited references that allegedly disclose or suggest this recitation of Claim 1. Applicants have carefully reviewed Freivald (the reference cited as teaching extracting and storing keywords). However, Applicants can find no indication that Freivald teaches or suggests storing keywords that are searchable by users that access an intermediary web site. This provides yet another reason for the withdrawal of the rejection of Claim 1.

H. Conclusion

As shown above, the cited references fails to disclose or suggest at least seven (7) recitations of Claim 1. As a rejection under 35 U.S.C. § 103 must, at the outset, show that each of the recitations of the claim at issue were disclosed in some combination of prior art references, the failure of the cited references to disclose these recitations of Claim 1 provide seven (7) independent grounds for withdrawal of the rejection of Claim 1. Applicants also take issue with the rationale identified in the Official Action as providing motivation to combine the cited references in the manner suggested in the rejections, but do not believe that it is necessary to expand on the deficiencies in this aspect of the rejection in light of the clear showing above that the rejection cannot stand. Accordingly, for each of the above reasons, Applicants respectfully submit that the rejection of Claim 1, and Claims 2, 4 and 5 which depend therefrom, should be withdrawn.¹

II. The Rejection of Claim 6 Should Be Withdrawn

Claim 6 stands rejected based on the same rationale that was used to reject Claim 1. (See Official Action at 3-4). While Claim 6 includes a number of recitations that are not included in Claim 1 and are not taught in the cited references – therefore providing even further reasons as to why Claim 6 is patentable over the cited art – Claim 6 does include each of the seven (7) recitations of Claim 1 discussed in Section I above that are clearly not disclosed or suggested in the cited prior art. Thus, the rejection of Claim 6, as well as the

¹ Applicants will not separately address reasons why each of the dependent claims are further patentable over the cited references in light of the clear showing herein that the claims from which they depend are patentable.

In re: Brader-Araje *et al.*
Serial No.: 09/549,370
Filed: April 13, 2000
Page 11

rejections of Claims 8 and 9 which depend therefrom, should be withdrawn for at least the same reasons that the rejections of Claims 1-2 and 4-5 should be withdrawn.

III. New Claim 54 is Patentable Over the Cited Art

Applicants have added new Claim 54 to the present application, which is similar to pending Claim 1, but removes various recitations that clearly are not necessary to patentably distinguish Claim 1 over the cited prior art. New Claim 54 includes various of the recitations discussed above that are not disclosed or suggested in the cited prior art and hence is patentable over the cited art.

IV. Conclusion

In light of the above discussion, Applicants submit that each of the pending claims is patentable over the cited references and, therefore, request allowance of pending Claims 1, 2, 4-6, 8-9 and 54.

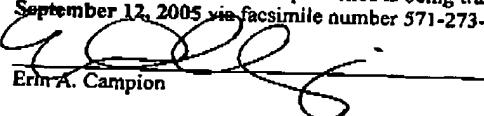
Respectfully submitted,


Needham J. Boddie, II
Attorney for Appellants
Registration No. 40,519

USPTO Customer No. 20792
Myers Bigel Sibley & Sajovec, P.A.
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: (919) 854-1400
Facsimile: (919) 854-1401
459195

CERTIFICATION OF FACSIMILE TRANSMISSION UNDER 37 CFR § 1.8

I hereby certify that this correspondence is being transmitted by facsimile to the U.S. Patent and Trademark Office on September 12, 2005 via facsimile number 571-273-8300.


Erin A. Campion